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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: *Erisman, Terry*) **RESPONSE UNDER 37 C.F.R.**
Serial No.: 09/560,203) **1.116 – EXPEDITED PROCEDURE**
Filed: 4/28/2000) **– GROUP Art Unit: 3624**
For: *Method & Apparatus for Auctioning Items*) **Examiner: Felten, Daniel S.** 2

RESPONSE D AFTER FINAL PURSUANT TO 1.116

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully responds to the final office rejection as follows:

REMARKS

Original claims 1 – 102 are pending.

The conclusions set forth in the Examiner's Office Action are unsupported and extremely unfortunate, because the precise grounds upon which the Examiner maintains the present rejection was something that was discussed – at length – over the course of a 1 hour telephone conference and resolved with Examiner Akers on March 5, 2004. It is bewildering to Applicant that the present Office Action makes absolutely no mention of the Applicant's lengthy interview with Examiner Akers which is referenced extensively in the submitted amendment. This is even more puzzling given that this is the Examiner's first appearance in the present proceedings, but nowhere is there any indication that he has consulted in any respect with Examiner Akers about this case, or the substance of the interview.

Nor can Applicant locate any record (PTOL – 413) from the Examiner identifying the interview conducted on the above date. Under the circumstances, Applicant submits that the record is incomplete and a final rejection on the merits is not appropriate.

Response D for SN: 09/560,203